



City of Seattle

Gregory J. Nickels, Mayor

Department of Design, Construction and Land Use

Diane M. Sugimura, Director

CITY OF SEATTLE ANALYSIS AND DECISION OF THE DIRECTOR OF THE DEPARTMENT OF DESIGN, CONSTRUCTION AND LAND USE

Application Number: 2105039
Applicant Name: Mark Nyhus for Verizon Wireless
Address of Proposal: 403 Terry Avenue

SUMMARY OF PROPOSED ACTION

Master Use Permit (MUP) to establish a minor communication utility (Verizon Wireless) consisting of twelve (12) panel antennas on the roof of a three-story apartment building. Project includes a fourteen (14) foot by twenty-three (23) foot electronic equipment room to be located on the third floor.

The following approvals are required:

Administrative Conditional Use Review - to allow a minor communication utility in a Midrise Multi-Family Residential Zone pursuant to Seattle Municipal Code (SMC) 23.57.011B.

SEPA - Environmental Determination pursuant to SMC 25.05.

SEPA DETERMINATION: ☐ Exempt ☐ DNS ☐ MDNS ☐ EIS

☒ DNS with conditions

☐ DNS involving non-exempt grading or demolition or
involving another agency with jurisdiction.

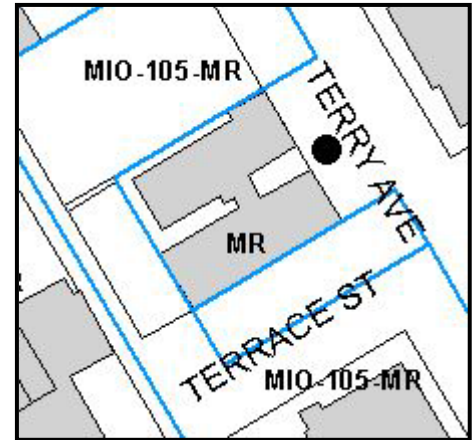
BACKGROUND DATA

Site Location and Description

The subject property is addressed as 403 Terry Avenue and is located on the southwest blockfront of Terry Avenue, between Jefferson Street and Terrace Street in the Capitol Hill neighborhood of Seattle. Zoning for the site is Multi-Family Residential Midrise (MR).

The site is developed with an existing three (3)-story apartment building and surface vehicle parking area.

The surrounding zoning to the northwest, southwest and southeast is Multi-Family Residential Midrise zone with a Major Institutional Overlay having a 105' height limit (MIO-105-MR); and to the northeast is Multi-Family Residential Midrise (MR) zoned.



Proposal Description

The applicant is proposing a rooftop installation of twelve (12) panel antennas to be constructed in three sectors of four (4) antennas, each sector having an overall dimension of eight (8) feet in height by twelve (12) feet in width by five (5) inches in depth. The twelve (12) foot width for the installation allows four feet of separation for each antenna.

The three screened sector locations are proposed as follows: one sector will be oriented to the northeast, just south of the northeast corner of the building; one sector will be oriented to the southeast, just west of the southeast corner of the building; and one sector will be oriented to the southwest, just south of the northeast corner of the building.

The electrical, radio and power equipment for the installation will be housed in vacant dwelling unit 304, which has 330 sq.ft. of floor area.

The proposed rooftop minor communication utility installation and screening is proposed at forty-six (46) feet above existing grade. The height limit for the MR zone is sixty (60) feet above grade and may extend up to sixty-five (65) feet with a pitched roof.

Public Comment

The public comment period for this project ended January 9th, 2002. DCLU received email comments from Harborview Medical staff during the comment period with questions about the June 2002 Interference Analysis submitted for the proposal. As a result of those questions, a December 2002 Interference Measurement Report was submitted on April 2, 2003. Copies of the email and reports are located within the MUP file.

ADMINISTRATIVE CONDITIONAL USE CRITERIA AND ANALYSIS

Seattle Municipal Code (SMC) 23.57.011B provides that a minor communication utility, as regulated pursuant to SMC 23.57.002, may be permitted in a Midrise zone as an Administrative Conditional Use when they meet the development standards of SMC 23.57.011C and the following criteria, as applicable.

- 1. The project shall not be substantially detrimental to the residential character of nearby residentially zoned areas, and the facility and the location proposed shall be the least intrusive facility at the least intrusive location consistent with effectively providing service. In considering detrimental impacts and the degree of intrusiveness, the impacts considered shall include but not be limited to visual, noise, compatibility with uses allowed in the zone, traffic, and the displacement of residential dwelling units.*

According to the plans, the antennas will conform to codified development standards, visual impacts and design standards of SMC 23.57.011 and 23.57.016. The antennas will be screened by materials and colors consistent with the current exterior of the building that will obscure two-thirds (2/3) the height of the antennas from view from any direction. The screens are designed to mimic the look of a rooftop penthouse or mechanical equipment screening, thus providing for a facility that is the least intrusive design for this residentially zoned neighborhood.

Some views from neighboring residential structures may be altered by the presence of the facility. The applicant has provided photographic simulated evidence suggesting that the visual intrusions would be minor.

The proposed minor communication utility is not likely to be substantially detrimental to the residential character of the residentially zoned area, and the location of the panel antennas are the least visually intrusive location consistent with effectively providing service and minimizing impacts to the existing neighborhood. Neighbors and tenants of the host building will not likely know the facility exists, in terms of its land use, once it is constructed, and cell phone coverage in the area will be improved, which will be beneficial to users in the neighborhood.

Traffic will not be affected by the presence of the constructed facility. The antennas will not emit noise, and the walls of the equipment room will shield any noise associated with the equipment. One vacant 330 sq.ft. dwelling unit will be displaced in conjunction with this application.

- 2. The visual impacts that are addressed in section 23.57.016 shall be mitigated to the greatest extent practicable.*

According to the plans submitted, the proposed height of the antennas will be two-thirds (2/3) screened from view and will be as inconspicuous as possible, within the parameters of the SMC, while remaining functionally effective. Therefore, the proposal complies with this criterion.

3. *Within a Major Institution Overlay District, a Major Institution may locate a minor communication utility or an accessory communication device, either of which may be larger than permitted by the underlying zone, when:*
- a.) *the antenna is at least one hundred feet (100') from a MIO boundary, and*
 - b.) *the antenna is substantially screened from the surrounding neighborhood's view.*

The proposed site is not located within a Major Institution Overlay District. Therefore, this criterion does not apply to the subject proposal.

4. *If the minor communication utility is proposed to exceed the zone height limit, the applicant shall demonstrate that the requested height is the minimum necessary for the effective functioning of the minor communication utility.*

The proposed minor communication utility will not exceed the height limit of the MR zone; therefore this criterion does not apply.

5. *If the proposed minor communication utility is proposed to be a new freestanding transmission tower, the applicant shall demonstrate that it is not technically feasible for the proposed facility to be on another existing transmission tower or on an existing building in a manner that meets the applicable development standards. The location of a facility on a building on an alternative site or sites, including construction of a network that consists of a greater number of smaller less obtrusive utilities, shall be considered.*

The proposed minor communication utility will not be a new freestanding transmission tower. Therefore, this criterion does not apply to the subject proposal.

SUMMARY

The proposed project is consistent with the Administrative Conditional Use criteria of the City of Seattle Municipal Code as it applies to wireless communication utilities. The facility is minor in nature and will not be detrimental to the surrounding area while providing needed and beneficial wireless communications service to the area.

The proposed project will not require the expansion of public facilities and services for its construction, operation and maintenance. The site will be unmanned and therefore will not require waste treatments, water or management of hazardous materials. Once installation of the facility has been completed, approximately one visit per month would occur for routine maintenance. No other traffic would be associated with the project.

DECISION - ADMINISTRATIVE CONDITIONAL USE

The Conditional Use application is **CONDITIONALLY APPROVED** as noted below.

SEPA ANALYSIS

Environmental review resulting in a Threshold Determination is required pursuant to the State Environmental Policy Act (SEPA), WAC 197-11, and the Seattle SEPA Ordinance (Seattle Municipal Code Chapter 25.05).

The SEPA Overview Policy (SMC 25.05.665 D) clarifies the relationship between codes, policies, and environmental review. Specific policies for each element of the environment, certain neighborhood plans, and other policies explicitly referenced may serve as the basis for exercising substantive SEPA authority. The Overview Policy states, in part: "Where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation," subject to some limitations. Under such limitations/circumstances (SMC 225.05.665 D1-7) mitigation can be considered.

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant dated December 10th, 2001. The information in the checklist, public comment, and the experience of the lead agency with review of similar projects forms the basis for this analysis and decision.

Short-Term Impacts

Environmental Health

The Federal Communications Commission (FCC) has pre-empted state and local governments from regulating personal wireless service facilities on the basis of environmental effects of radio frequency emissions. As such, no mitigation measures are warranted pursuant to the SEPA Overview Policy (SMC 25.05.665).

The applicant has submitted a "Statement of Federal Communication Commission Compliance for Personal Wireless Service Facility" and an accompanying "Affidavit of Qualification and Certification" for this proposed facility giving the calculations of radiofrequency power density at roof and ground levels expected from this proposal and attesting to the qualifications of the Professional Engineer who made this assessment. This complies with the Seattle Municipal Code Section 25.10.300 that contains Electromagnetic Radiation standards with which the proposal must conform. The Department's experience with review of this type of installation is that the EMR emissions constitute a small fraction of that permitted under both Federal standards and the standards of SMC 25.10.300 and therefore pose no threat to public health.

Construction and Noise Impacts

Codes and development regulations applicable to this proposal will provide sufficient mitigation for most impacts. The initial installation of the antennas and construction of the equipment room may include loud equipment and activities. This construction activity may have an adverse impact on nearby residences. Due to the close proximity of nearby residences, the Department finds that the limitations of the Noise Ordinance are inadequate to appropriately mitigate the adverse noise impacts associated with the proposal. The SEPA Construction Impacts policies, (SMC 25.05.675.B) allow the Director to limit the hours of construction to mitigate adverse

noise and other construction-related impacts. Therefore, the proposal is conditioned to limit construction activity to non-holiday weekday hours between 7:30 a.m. and 6:00 p.m.

DECISION

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirement of the State Environmental Policy Act (RCW 43.21.C), including the requirement to inform the public of agency decisions pursuant to SEPA.

[X] Determination of Non-Significance. This proposal has been determined not to have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21.030(2) (c).

[] Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030(2)C).

ADMINISTRATIVE CONDITIONAL USE CONDITIONS

1. Screening shall be integrated with architectural design, material, shape and color that are sympathetic to that of a rooftop penthouse or mechanical equipment screening.

SEPA CONDITIONS

During Construction - The following condition to be enforced during construction shall be posted at the site in a location on the property line that is visible and accessible to the public and to construction personnel from the street right-of-way. If more than one street abuts the site, conditions shall be posted at each street. The conditions will be affixed to placards prepared by DCLU. The placards will be issued along with the building permit set of plans. The placards shall be laminated with clear plastic or other waterproofing material and shall remain posted on-site for the duration of the construction.

1. In order to further mitigate the noise impacts during construction, the hours of construction activity shall be limited to non-holiday weekdays between the hours of 7:30 a.m. and 6:00 p.m. This condition may be modified by DCLU to allow work of an emergency nature or allow low noise interior work. This condition may also be modified to permit low noise exterior work after approval from the Land Use Planner.

Signature: _____ (signature on file) Date: July 31, 2003
Colin R. Vasquez, Land Use Planner
Department of Design, Construction and Land Use
Land Use Services